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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIFTH APPELLATE DISTRICT**

In re

SCOTT D. THOMPSON,

On Habeas Corpus.

F077872

(Kern Super. No. BF163130)

**OPINION**

**THE COURT\***

ORIGINAL PROCEEDINGS; petition for writ of habeas corpus.

Scott D. Thompson, in pro. per., for petitioner.

Xavier Becerra, Attorney General, Michael P. Farrell, Assistant Attorney General, and Max Feinstat, Deputy Attorney General, for Respondent.

-ooOoo-

Petitioner seeks permission to file a belated notice of appeal based on trial counsel's failure to file an appeal following enactment of Senate Bill No. 180 (2017-2018 reg. Sess.) effective October 11, 2017, 13 days after petitioner's sentencing on September 28, 2017. The new legislation made a three-year sentencing enhancement under Health and Safety Code section 11370.2, subdivision (c), inapplicable to petitioner.

The Attorney General was given an opportunity to file opposition to the request and told that its failure to do so would be treated as consent to the requested relief being

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\* Before Levy, Acting P.J., Franson, J., and DeSantos, J.

granted without further proceedings. The Attorney General filed an informal response agreeing petitioner's "allegations appear to be sufficient to make a prima facie showing for relief from default under the Sixth Amendment right to counsel. (*Roe v. Flores-Ortega* (2000) 528 U.S. 470, 480.)"

Accordingly, this court concludes petitioner is entitled to relief.

### **DISPOSITION**

Petitioner is granted leave to cause a notice of appeal to be filed on or before 60 days from the date of this order in Kern County Superior Court, action No. BF163130.

Let a writ of habeas corpus issue directing the Clerk of the Superior Court for Kern County to file said request in its action No. BF163130, to treat it as timely filed, and to proceed with the preparation of the record on appeal in accordance with the applicable rules of the California Rules of Court if the clerk of that court receives said request on or before 60 days of the date of this order.

This opinion is final forthwith.